

Congress of the United States
Washington, DC 20515

February 22, 2019

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Chairman Ajit Pai
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Pai:

It has come to my attention that the Federal Communications Commission (FCC) is considering whether to authorize the C-Band Alliance to sell the C-Band (3700 – 4200 GHz) spectrum through a private sale.¹ It is critical that the FCC ensures that spectrum is allocated through a democratic process that fosters competition and results in the best outcome for working Americans. I am concerned that the private sale of C-Band spectrum threatens these goals.

A private sale of the C-Band spectrum may threaten competition, deepen the digital divide and raise prices on consumers. The efficient allocation of C-Band spectrum is important to fostering a competitive market for cable television. Some market participants have raised concerns that the private sale of this spectrum could lead to higher prices for companies that lease spectrum, which in turn could lead to increased prices that eventually are passed on to consumers in the form of higher prices or reduced choice.² Cable programmers may also view higher distribution costs as a barrier to entry, and opt for a different method for the delivery of video. Consequently, rural cable operators that lack access to fiber may be foreclosed from providing additional cable programming going forward. Private companies in the satellite industry should therefore not have the ability to dictate how to structure the market for C-Band spectrum when its primary incentive is profit, not consumers' best interests or protecting the competitive process.

I am also deeply concerned that a private sale is incompatible with the broad goals of promoting transparency, accountability, and democratic participation in our government and the rulemaking system. Congress has made clear that spectrum is owned by the government and held in public trust.³ The government licenses the spectrum to private parties in order to further the "public interest, convenience or necessity,"⁴ not private gain. There is little to suggest that a privately negotiated spectrum sale would effectively safeguard the benefits of quality, input, and availability of democratic participation that would be protected and secured by a public auction. In sum, the reallocation of the underutilized C-Band spectrum should be accountable to the

¹ *Expanding Flexible Use Of The 3.7 GHz to 4.2 GHz Band et. Al.*, Order and Notice of Proposed Rulemaking, GN Docket No. 18-122 *et al.*, FCC 18-91 (2018).

² Panel Discussion at the New America Open Technology Institute event on the Great Airwaves Robbery II (Feb. 5, 2019).

³ See S.Rep. No. 86-562, at 8-9 (1959).

⁴ 47 U.S.C. §§ 307, 309

democratic processes that a public auction ensures, not subject to a closed system without adequate safeguards in a private sale.

Finally, I am concerned by the impact of a private sale on the rights and interests of American taxpayers. A license is not a property right. Through the proposed private auction, the C-Band Alliance could receive an estimated \$60-75 billion for spectrum that they did not acquire, but merely licensed.⁵ The FCC should not grant the satellite industry a multi-billion dollar windfall at the expense of American taxpayers.⁶ Instead, the FCC should ensure that the profits of the sale are returned to the public through the U.S. Treasury.

In light of these concerns, I therefore request that you clarify whether the Commission intends to allow this auction to proceed under this process.

Sincerely,



David N. Cicilline
Member of Congress



Jim Langevin
Member of Congress

⁵ Phil Kurz, U.S. C-Band Sale Could Wipe Slate Clean For Intelsat, SES, Say Analysis (Oct. 18, 2018), <https://www.tvtechnology.com/news/u-s-c-band-sale-could-wipe-slate-clean-for-intelsat-ses-say-analysis>.

⁶ Panel Discussion at the New America Open Technology Institute event on the Great Airwaves Robbery II (Feb. 5, 2019).



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

April 25, 2019

The Honorable David Cicilline
U.S. House of Representatives
2244 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Cicilline:

Thank you for your letter concerning the Commission's ongoing rulemaking related to spectrum in the 3.7-4.2 GHz band, commonly called the "C-band." In the C-band proceeding, we are aiming to balance a number of interests. One of those interests is American leadership in 5G, the next generation of wireless connectivity. C-band spectrum could provide significant benefits as we enter the world of 5G. It offers both geographic coverage and the capacity to transmit large amounts of data—a combination that is appealing to entrepreneurs and wireless consumers alike. Another interest involves the appropriate treatment of those entities that currently rely on C-band-delivered services. In particular, we recognize that broadcasters and cable operators rely on this spectrum for the delivery of services that consumers rely upon.

The complex interests in the C-band explain why the FCC is exploring a wide range of options, including the market-based option you discussed. We want to consider all possibilities in order to maximize the C-band's public benefits.

Thank you once again for your letter, which will be entered into the record of this proceeding and will be considered as part of the Commission's review. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Ajit V. Pai".

Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

April 25, 2019

The Honorable Jim Langevin
U.S. House of Representatives
2077 Rayburn House Office Building
Washington, D.C. 20515

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The complex interests in the C-band explain why the FCC is exploring a wide range of options, including the market-based option you discussed. We want to consider all possibilities in order to maximize the C-band's public benefits.

Thank you once again for your letter, which will be entered into the record of this proceeding and will be considered as part of the Commission's review. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink that reads "Ajit V. Pai". The signature is fluid and cursive, with the first name "Ajit" and last name "Pai" being more prominent than the middle initial "V".

Ajit V. Pai